Previous references.

Cts 85-96.

190 .

(Courts.)

File No. 62 of 97

Serial Nos. 1 – 5

Later references.

Cts 107 of 02

Cts 22-61(153)

" 61-36(1-2)

Revn 234-36(1-2)

GENERAL AND REVENUE SECRETARIAT.

122

Serial Nos. 1 - 5

~~Part~~ B. for March 1900

SUBJECT.

Payment of Travelling allowances and Batta to witnesses attending Sessions Courts.

Sl. 1 From The Dist. Magte Bellary.

No. 2074/609 Dt 17-12-97

Submits for sanction a batta bill for Rs 52-8- payable to two witnesses who proceeded to Bangalore to give evidence in the case of Dacoity in the Chinnasapur Taluk.

2 — To The Registrar Cclr. Court.

G. R. S. 58 No. 7858/7896 Dt 11-1-98

Forwards the above for sanction and requests to submit the opinion of the Govt on the same.

From The ~~The~~ Registrar of the Court.

No. 5191/157 Dt 22-3-98.

States that the judges are of opinion that T. allowances and batta should be speedily fixed to witnesses attending the sessions courts and forwards a set of Rules on the subject for approval.

4 To The Registrar of the Chief Court

No. 9297/J851 Dt 13-7-1900

Approves of the draft Rules forwarded with the above with the exception of Rule 8 re. the payment of the expenses of acquitted prisoners

5. To The Compiler

No. 9926/J919 Dt 1-3-1900

notifies the above for general information

(12/a)

Note

put file by 5/4/97.

SECTION: ds

FILE NO. 62 of 97

Subject: Travelling allce to public servants attending Civil Courts as witnesses

The only refce available is a copy of the Chief Commr's Order No. 06 dy 27 May 1875.

2. Under this Order, witnesses are divides into 4 classes acc to their income; and the batta originally payable for every day's attendance and for every day's journey of 10 miles (or fraction thereof over 5 miles) is as follows:-

class.	Income.	batta
I.	Rs 200 & over.	2 Rs.
II.	100 "	1 R.
III.	50 "	½ R.
IV.	below 50 Rs.	¼ R.

In special cases, the Judge has the discretion to allow addl sums to cover bona fide travelling expenses or the loss entailed on a professional man by his absence.

3. The Travelling allowances of Govt servants are regulated by Part XII of the Mysore Service Regns. Under Art. 596, an Officer is entitled to travelling allowance for a journey undertaken in obedience to the summons of a Court [Civil & Criml] as a party or as a witness in his official capacity. In case of his claiming such allce, he should certify

The Revenue has always been treated as part of pension & leave allce is not admissible. I have consulted the Revd Col Bowen & he agrees. 5/4/97

This corresponding provision in the British Service Regulations is article 1246

Govt. all moneys received from or through the Court. (Act. 597).

4. The instance brought to notice by the D.P.W. Secretary shows that the rates of batta allowed by Courts are generally lower than the rates of travelling allces claimed by them from Govt.

5. ~~The~~ Col. Bowan, therefore wants to make it incumbent ~~to~~ on Judges to award to Govt. Officials their actual t. allces under the M. S. Regns.

I venture to state that the draft addition now proposed would still leave the matter to the discretion of the Judge, and thus make no real alteration in existing procedure.

The last para may, therefore, be recast thus :-

"The above rates will be those ordinarily claimable by witnesses. But in the case of public servants such additional sums shall be paid as will cover the travelling allowances they may be entitled to draw from the Govt; and in other special cases, it shall be discretionary with the Judge to allow to a witness such additional sums as he may consider reasonable to cover either the bona fide expenses incurred by him in travelling or ~~the loss that his absence may~~, if he be a professional man, the loss that his absence may entail upon him.

Subdeer

31/3/27

Note. The word "either" has been ungrammatically transposed in the original rule. ls

Copy taken from the Mysore Gazette dated 29th May 1875, Part I page. 153

(12/6)

No. 86.

The 27th May 1875

The officiating Chief Commissioner having had under his consideration the Subject of revising the rates of batta payable to witnesses in Civil Cases, and having ~~Court~~ consulted the Judicial commissioner, directs the following addition to be made to the Rules prescribed in Judl. commissioner's Circular No. 13 dated 10th September 1874.

Witnesses in Civil Proceedings will be divided into four classes as follows:—

1st class — Persons whose monthly income is Rs 200/ and over.

2nd class — do — do Rs 100/ do

3rd do do do Rs 50/ do

4th do do do is below Rs 50/.

For every day's attendance at the Court

Court, and for every day's journey of ten miles to and from the court, a fraction of ten miles exceeding five miles being reckoned as ten miles, witnesses of the 1st class will be entitled to receive two Rupees, those of the 2nd class, one Rupee, those of the 3rd class 8 as, and those of the 4th class 4 as:

The above rates will be those ordinarily claimable by witnesses, but in Special cases, it Shall be discretionary with the judge to allow to a witness Such addional Sums as he may consider reasonable to cover the bona fide expenses incurred by him either in travelling or the loss that his absence may entail upon a professional man.

"By order"

(Signed) T. Clarke

Offg. Secretary

42/C

Copy taken from the Mysore Gazette, dated 19th September 1874. Part II page 362.

Circular order

No. 13.

The 10th September 1874.

Whereas there is reason to believe that the present rates of batta payable to witnesses in Civil cases are too high, the Judicial Commissioner has framed the following rules, in modification of this office circulars Nos. 1685-96 and 2071-110, dated 17th November 1869 and 19th January 1870, and hereby publishes them for general information, and for the guidance of all civil courts in Mysore and Coorg.

Witnesses in Civil proceedings will be divided into four classes, as follows:—

1st class — Persons whose monthly income is Rs 200 and over.

2nd — do — — do — do — Rs 100 and over.

3rd class — Persons whose monthly income is Rs 50 and over.

4th ~~do~~ ~~do~~ ~~do~~ is below Rs 50.

For every day's attendance at the Court, and for every day's journey of ten miles to and from the Court, a fraction of ten miles exceeding five miles being reckoned as ten miles, witnesses of the 1st class will be entitled to receive two Rupees; those of the 2nd class one Rupee, those of the 3rd class 8 as, and those of the 4th class 4 as.

(Signed) J. D Gordon.
Jud. Comm.

Not issued
Read.

(8)

Letter No. 2074 / 607

17th Dec. 1897 from the Dy Magistrate of Kolar, submitting for sanction a bill for Rs. 52-8-0 being the 15 batta payable to witnesses who proceeded to Bangalore to give evidence in a case of dacoity in the Srinivaspur Taluk tried by the Sessions Judge at Bangalore on the 6th Dec. 1897, ~~in consequence of the abolition of the circuit sessions for the Bangalore Division ordered in Pro. No. C. 10-12 of 2nd Oct 1897~~

Order thereon

The bill is sanctioned

This means that the present Rules regarding the payment of batta to witnesses in Criminal Cases will have to be modified - But the Above Rules please of 4-1-98

Put by 6/4/98

J. 7 No. 33 of 96-97 put up (Please see S No. 4 in No. ...) Sent to Mr. Weir & 5/1/98
4-1-98

That proposal is not quite in accordance with the existing rules & may therefore be sent to the Chief Commissioner for any observations if any
6-1-98

A and requesting that payment of batta to prosecution witnesses may be ordered in every Sessions case from his District

2. As to prosecution witnesses from the Kolar and Tumkur districts are likely to be put to expense in attending the sessions for those districts held at Bangalore, Govt are pleased to direct that batta at the usual rates shall be paid to such witnesses in future

See 4

B/1/90.

Note

The remedy lies (if any) as stated in the form of giving batta to such witnesses.

(12)

Note

For the existing Rules, which, however, apply to all criminal Courts (not merely to Sessions Courts) please see cl. 4 in File 33 of 1897. According to them, no payment is to be made except when the witness is poor or his expenses are considerable, and the maximum rate generally allowable is only 4 as. for every day's attendance & for every day's journey of ten miles to & from the Court.

The draft rules relating to Sessions Trials, & and provide much larger, but not unreasonable rates of travelling allce and batta.

The [redacted] of the rule about expenses of acquitted prisoners does not appear to be covered by the power possessed by Govt. to make rules under s. 544 of the Crim. Pro. Code, as prisoners are of course neither "complainants" nor "witnesses."

If the charges in question are [redacted] to be met out of the Court's contingencies, the fact- maybe laid down in an additional rule.

Subs to Secy. for orders

25/3/98

How do the rates proposed compare with the rates allowed for attendance in Civil Courts?

25/3

The rates for attendance in Civil Courts are governed by the Rules in the Ch. Comr's Notfn. No. 86 dt 27-5-75, according to which the batta ordinarily payable for every day's attendance & for every day's journey of ten miles (or fraction thereof over 5 miles) is as follows:—

Class	Income	Batta
I	Rs 200 & over	2 Rs
II	" 100 & over	1 R
III	50 & over	8 annas
IV	Below 50 Rs	4 annas.

In special cases, the Judge has the discretion to allow additional sums to cover bonafide travelling expenses or the loss entailed on a professional man by his absence.

3. The Travelling allowances of Govt servants are regulated by Part XII of the Mysore Service Regulations.

1/4/98

Asst Secy's note & the Chief Comm's Notfn No. 86 dt 27/5/75 Subs. 30-3-98.

30/3/98

DMB
22/12/99

46

Subs

J. & W. No. 24 of
1896-97 in re the
abolition of circuit
Sessions in the Nandi-
droog Dn. was put up
with letter No. 5191/15
22/3/98 from the Registrar
Ch: Court proposing a
set of rules for the pay
-ment of batta and
travelling allces to
witnesses attending
Sessions ~~Courts~~. Courts,
and subs to Deman

DMB
21/12/99

Please get the papers back
from D.H.O. Sharp. DMB
21/12

Dear Sir. Please see the
above order of the Subs.
Dn. office and kindly
return the file.
Yours sincerely
21/12 R.S. Ramachendra Row
Jnr. Asst
Dr. The file D.V. Lakshmana Row
DMB pulled up
21-12-99.

5563 / 853 / 24-12-97

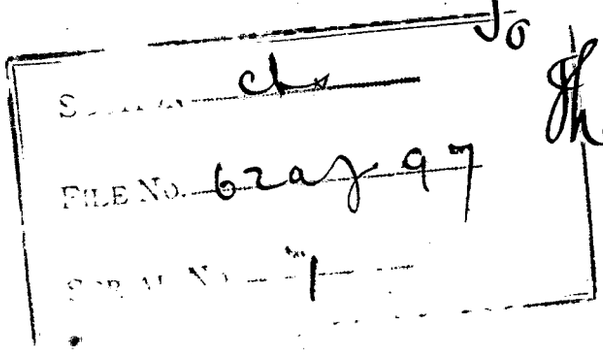
(7)

From

The Dr Magistrate, Kolar

To

The Secretary to Govt of Mysore



Date 17th Decr 1897

Recd 24-12-97

No. 2074/607 Encl 1

Submits for sanction a batta bill for Rs 52-8-0 payable to the witnesses who proceeded to Bangalore to give evidence in the case of dacoity in the Srinivaspur Taluk tried by the Sessions Judge on the 6th Inst &c.

Draft submitted for approval —

J.

(9)

The Registrar

~~Chief~~ Court

Cls

File No. 62 of 97

Div. 2

No. 7868/1896 dt 11-1-98

Enc 2.

I am directed to forward herewith letter No. 2074/607 dated 17th Dec. 1897 with its enclosure received from the Dt. Magte of Kolar requesting, ~~for reasons stated therein,~~ sanction for the payment of batta to prosecution witnesses from Chas. Districts attending Sessions Trials at ~~proceeded to~~ Bangalore ~~to give evidence in a case of dacoity tried by the Sessions judge on the 6th Dec. last.~~ The Dt. Magte proposes in the letter that ~~such payments of batta may~~

four Copies
B.L.

~~may generally be made~~
~~to prosecution witnesses~~
~~in every sessions case~~
~~from the district~~ and to request the
~~proposal not being~~ judges, ~~not seem to be~~
~~quite in accordance~~
with ~~the existing rules~~,
~~I am to request~~ the
favour of an expression
of the opinion of the
judges ~~in the matter~~ with regard to this proposal, which does not seem to be quite in accordance with the existing rules.

I have &c

[signature]
7/11/90

for Secretary

1897-98 / 125-7

8352
26/3/98.

(13)

From

The Resident of Mysore
& Chief Comm.r, Mysore

To

The Secretary to the
Govt. of Mysore

Dated 22nd March/98
Despt. 26th

Recd. in J. Branch No. 5191 Encl: 1
26.3.98 157

States that the Judges are of opinion that travelling allowance and batta should be paid by Govt. to witnesses attending the Sessions Courts & forwards for approval of Govt. a set of Rules on the subject

Batta should be paid to witnesses in Sessions cases

The Proposed Rule VIII is not covered by the Rules quoted in Govt. Section 544.

2/4/98

SECTION [illegible]

[illegible]

3

[illegible]

Rules & Orders proposed by the Resident

Despatched

30/12/98 29-12-98.

Subject for draft - HR
30/12/98

Submitted
4/1

J 26/3/98

Respectfully
26/3/98

Submitted to Govt.

The rates proposed seem too liberal. The rates allowed in Civil Cases may be adopted if it is decided that

N 5191 Le: 1
957

5'

Bangalore 22nd March 1898.

(13)

From

The Registrar of the
Chief Court of Mysore.

To The Secretary to the
Government of Mysore,
General and Revenue Departments.

Sir,

S No. 9 in J 71 No. 24

With reference to your letter no. 7858 / 3896 dated the 11th January 1898, I am directed to state that the Judges are of opinion that travelling allowance and batta should be paid by Government to witnesses attending the Sessions Courts in all Sessions trials, and to forward for the approval of Government a set of Rules on the subject.

I have the honor to be,
Sir,
your most Obedient Servant,

Registrar

fjb

Encl to
Gl 3 (13/a) G

Rules.

Under the provisions of Section 544 of the Code of Criminal Procedure, the Government of Mysore ~~has been~~ pleased to pass the following Rules for regulating the payment on the part of Government of the expenses of witnesses attending before ~~the~~ Sessions Courts in the ~~Province~~ State at Sessions trials.

I The Sessions Courts are authorized to pay at the rate specified in Rule III the expenses of witnesses in Sessions Cases.

II For the purpose of these rules, witnesses shall be divided into three classes. The Committing Magistrate will note in the list of witnesses, the class to which each belongs, due regard being had to the station in life occupied by each.

Power to the Committing Magistrate

Travelling

III Travelling allowances and batta shall be paid at the rates specified below:—

	1st Class	2d Class	3d Class
Travelling allowances.			
By rail	1st Class fare	2d Class fare	3d Class fare.
By road	8 annas per mile	4 annas per mile	2 annas per mile
By sea or canal—	Actual expense of passage.		
Batta not to exceed	3 Rupees per diem	1 Rupee per diem	8 annas per diem

IV The distance for which mileage, and the number of days for which batta should be allowed for the journey to and from the station at which the Court is held, and for attendance at Court, shall be determined by the judge ordering the payment in each case. To entitle a witness to travelling allowances and batta under these rules it is not necessary that he should be

examined

examined. It is sufficient that he attended the Court in obedience to a summons. But payment may be refused in cases in which the judge finds that the evidence given by the witness is untrue, or intended to mislead the Court.

V. The Sessions Courts are authorized to pay the necessary and actual expenses of carriage to a witness travelling by road in the case of persons whose sickness, age, position or habits of life render it impossible for them to walk; provided the expense incurred under this rule shall in no case exceed eight annas a mile.

VI. To witnesses of the first class there may also be allowed the actual cost of carriage hire to and from Court on the days of attendance at Court.

VII. In every case where the attendance of a public servant summoned as a witness is reasonable and his

conduct

conduct in the case is not condemned, the Court shall give such public servant a certificate to that effect in order to establish his right to pay and to travelling allowance and batta at the rates admissible under the Mysore Service Regulations.

VIII. Acquitted prisoners, if without means, shall have a reasonable sum given them, say, the same batta as is allowed to 3rd Class witnesses, to enable them to proceed to their villages, provided the Sessions judge thinks they are deserving of such consideration.

[This Rule is not covered by the Criminal Procedure Code]

(14)

Read correspondence ending with Letter no 5791/157 dated the 22nd March 1898 submitting for the approval of Govt a set of rules for regulating the payment by Govt of batta travelling allowance and batta to witnesses attending Sessions trials in the P. S. Area.

SECTION 61

FILE No. 62 of 98

SERIAL No. 4

No: 9297/854 dt 13-2-1900. Order thereon.

The Draft Rules forwarded with the above are approved with the exception of Rule 8, regarding the payment of the expenses of acquitted prisoners, as this is not covered by the power given to Govt under S. 544 of the Code of Cr. Procedure.

~~The Govt are~~ pleased to approve of all the rules referred to above, except Rule 8 thereof

2. The Rules as approved ~~as~~ will be only published ~~for the information of the Bar on the next~~ and the two following ~~issues of the Court~~ in the Japan Gazette.

1-2-00

1/2/00

Secy:

To,

The Registrar of the Chief Court of Myore.

9mk
4/1

Appendix

[Here enter Rules as approved]

Notification.

12 (15)

No. 2926 / 2949 dated 1st March ~~Feb:~~ 1900.

The following Rules for regulating the payment of travelling allowance and batta to witnesses attending Sessions Courts in the State, approved of by Govt in their Proceedings No. 7297 / 8574 dated the 13th ~~Feb:~~ Feb: 1900, are hereby published for general information.

(Here enter rules)

To, The Compiler, Mysore Gazette for publication in the next & the two following

B. O.

2/3/1900

for Secy:

issues of the Gazette & for
conversion of 100 spare copies

nca
21/2

GENERAL.

No. 9926—*J.* 949, *dated* 1*st March* 1900.

The following Rules for regulating the payment of travelling allowance and batta to witnesses attending Sessions Courts in the State, approved of by Government in their Proceedings No. 9297—J. 854, dated the 13th February 1900, are hereby published for general information:—

RULES.

I. The Sessions Courts are authorized to pay at the rate specified in Rule III the expenses of witnesses in Sessions cases.

II. For the purpose of these rules, witnesses shall be divided into three classes. The Committing Magistrate will note, in the list of witnesses, the class to which each belongs, due regard being had to the station in life occupied by each.

III. Travelling allowances and batta shall be paid at the rates specified below:—

	1st Class.	2nd Class.	3rd Class.
Travelling allowances—			
By rail	1st Class fare.	2nd Class fare.	3rd Class fare.
By road	8 annas per mile.	4 annas per mile.	2 annas per mile.
By sea or canal	Actual expense of passage.		
Batta not to exceed	3 rupees per diem.	1 rupee per diem.	8 annas per diem.

IV. The distance for which mileage, and the number of days for which batta, should be allowed for the journey to and from the station at which the Court is held, and for attendance at Court, shall be determined by the Judge ordering the payment in each case. To entitle a witness to travelling allowances and batta under these Rules, it is not necessary that he should be examined. It is sufficient that he attended the Court in obedience to a summons. But payment may be refused in cases in which the Judge finds that the evidence given by the witness is untrue, or intended to mislead the Court.

V. The Sessions Courts are authorized to pay the necessary and actual expenses of carriage to a witness travelling by road in the case of persons whose sickness, age, position or habits of life, render it impossible for them to walk; provided the expense incurred under this rule shall, in no case, exceed eight annas a mile.

VI. To witnesses of the first class there may also be allowed the actual cost of carriage hire to and from Court on the days of attendance at Court.

VII. In every case where the attendance of a public servant summoned as a witness is reasonable, and his conduct in the case is not condemned, the Courts shall give such public servant a certificate to that effect, in order to establish his right to pay and to travelling allowance and batta at the rates admissible under the Mysore Service Regulations.

By Order,

C. SREENIVASIENGAR,
Secy. to Govt., Genl. & Rev. Depts.